IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7641 OF 2007

Shashikant Tukaram Chalikwar & Anr. .. Petitioners

V/s

State of Maharashtra & Ors. .. Respondents

Mr.A.Y. Sakhare, Senior Advocate i/b Y.K.S. Legal for the petitioners.

Mr.R.P. Behere, A.G.P. for the respondents no.1 to 3.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 15TH OCTOBER 2007

P.C. :

1. Heard learned counsel for the parties.

2. By this petition, the petitioners challenge the judgment and order dated 21st March 2007 passed by the Maharashtra Administrative Tribunal (for short "the Tribunal") in Original Application No.351 of 2006. The petitioners were not parties to the original application. The petitioners however seek to challenge the order of the Tribunal on the ground that the impugned order affects their rights and has been passed without granting an opportunity of hearing to them.

3. In our view, if the order affects the rights of the petitioners in any way, it is open to the petitioners to move the Tribunal for modification of the order to the extent to which it affects their rights. Learned counsel for the petitioners however submitted that that cannot be done as the order of the Tribunal has already been challenged by the State of Maharashtra by filing Writ Petition No.4461 of 2007 and the said writ petition is pending. It is worthy to note that the in the writ petition, the implementation of the order has been stayed. In the circumstances, the rights of the petitioners are not presently affected as the entire order has been stayed. In our view, mere pendency of the writ petition would not prevent the petitioners for moving for the modification nor would it prevent the Tribunal from entertaining the application in the absence of any specific stay to that effect.

4. For the reasons mentioned above, we decline to entertain the writ petition. The writ petition is accordingly rejected summarily with liberty to the petitioners to move the Tribunal for appropriate reliefs.

(D.G. KARNIK, J.) (S.B. MHASE, J.)